

**REMARKS**

The Examiner is thanked for the thorough examination of the present application. Claims 1-35 remain in this application. By this Amendment, claims 1, 15 and 25 are amended. Currently pending claims 1-35 are believed allowable, with claims 1, 14, 15 and 25 being independent claims. In support of claim allowance, the Applicants submit the following:

REJECTIONS UNDER 35 USC §102 AND §103

Claim 1

Independent claim 1 was rejected under 35 USC §102(e) as allegedly anticipated by U.S. Patent Document No. 2002/0194173 (Bjornson).

The MPEP § 2131 defines the standard for anticipation as follows:

The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). MPEP § 2131 (emphasis added)

Thus, the reference must not only disclose all elements of the claim within the four corners of the document, but must disclose those elements "arranged as in the claim." Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

Claim 1 recites, in part, "each unit including its own key identifier . . . such that the collection of workload units belonging to the parent workload group share an identical sequence of values at a specified depth value of their key identifiers, the identical sequence of values defining a group key identifier associated with the parent workload group."

As the Examiner correctly points out, Bjornson discloses high precision sequence comparison searching of one, two, three or more query sequences against one, two, three or more sequence databases. Bjornson, paragraph [0053]. Figure 5 of Bjornson shows tasks being divided into subtasks. However, there is no disclosure in Bjornson of each unit including its own key identifier such that the collection of workload units belonging to the parent workload group share an identical sequence of values at a specified depth value of their key identifiers, the identical sequence of values defining a group key identifier associated with the parent workload group.

The Examiner appears to be interpreting the figure labels of Figure 5 (i.e., "Task 1.B.A1") as the key identifiers claimed in claim 1. However, there is no teaching in Bjornson of the figure labels used as key identifiers in each workload unit. Bjornson discloses, "The two smaller searching tasks that are the parts of the now-divided searching task are termed 'Buddies.' Each new smaller searching task is marked as the other one's Buddy, and the original undivided task is marked as the "Parent" of each of the two new smaller searching tasks." Bjornson, paragraph [0060]. Bjornson does not disclose that the figure labels are used to identify "Buddies" and "Parent".

The Examiner's anticipation argument fails because the figure labels of Figure 5 are not used in Bjornson to identify tasks. Furthermore, there is no disclosure in Bjornson of an identical sequence of values defining a group key identifier associated with the parent workload group.

Accordingly, it is submitted that independent claim 1 is patentable over the prior art. Its respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

Claim 1 further recites, "assigning a target server to manage at least one of the child workload groups." According to Bjornson, "original undivided task is marked as the "Parent" of each of the two new smaller searching tasks." Bjornson, paragraph [0060]. However, there is no teaching in Bjornson that the parent task manages a child task.

Claims 15 and 25

Independent claims 15 and 25 were rejected under similar grounds as claim 1. Thus, claims 15 and 25 are allowable over the prior art for at least the same reasons as claim 1. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

Claim 14

Independent claim 14 was rejected under 35 USC §103 as allegedly obvious over Bjornson in view of U.S. Patent No. 7,024,563 (Shimosato).

Claim 14 recites, in part, "each active resource independently evaluating its own workload condition and deciding on the creation or consolidation of identifier keys to reduce or increase its workload." The Office Action alleges that this limitation is found in Shimosato. Office Action, pp. 7-8. The Applicants respectfully disagree.

As mentioned above, Bjornson does not teach that the figure labels of Figure 5 (i.e., "Task 1.B.A1") are used as identifier keys in each workload unit. Moreover, there is no disclosure in Bjornson of creation and consolidation of these figure labels. The citations offered in the Office Action (Shimosato, [0060], [0069] and [0091]) discuss the creation of tasks, not the figure labels.

Claim 2

Claim 2 is dependent on claim 1 and recites, "The method of claim 1, further comprising if the overload condition exists, identifying at least one candidate server to which the child workload groups may be distributed using a decentralized protocol, the at least one candidate server including the target server."

As discussed above, Bjornson discloses a centralized coordination scheme for computers to coordinate their activities using a centralized shared memory called a VSM. By contrast, claim 2 recites identifying at least one candidate resource to which the child workload groups may be distributed using a decentralized protocol.

The Examiner contends, "the decision of splitting the task is made by the worker computer along, thus it is decentralized."

Office Action, pp. 4. However, claim 2 does not claim decentralized protocol for deciding to split a task. Rather, claim 2 recites identifying at least one candidate server to which the child workload groups may be distributed. Thus, the Examiner's argument is not pertinent to claim 2.

Claim 3

Claim 3 is dependent on claim 1 and is amended to recite, "The method of claim 1, further comprising requesting workload acceptance from the target server at a peer level."

As discussed above, Bjornson discloses a centralized coordination scheme for computers to coordinate their activities using a centralized shared memory called a VSM. By contrast, claim 3 recites requesting workload acceptance from the target resource at a peer level. Thus, claim 3 is not anticipated by Bjornson.

Claim 4

Claim 4 is dependent on claim 1 and recites, "The method of claim 1, further comprising recording the parent workload group as inactive at the active server." The Office Action alleges such teaching is found at paragraph [0056] of Bjornson. The Applicants disagree with such a conclusion.

The Applicants respectfully submit there is no disclosure in paragraph [0056] of Bjornson of recording the parent workload group as inactive at the active resource. Indeed there is no mention of parent workload group, let alone a step of recording one as inactive at an active resource.

The Office Action states, "the Examiner interpreted this claim to mean a task is waiting, hence inactive, to be processed by an active resource, which is a worker computer." Office Action, pp. 14. The Applicants respectfully submit that such an interpretation is unreasonable.

First, the claim specifically recites the step of recording an inactive state. There is no disclosure of recording an inactive state in Bjornson.

Second, the claim requires a group to be inactive. Paragraph [0056] of Bjornson states, "If there is an insufficient number of tasks on the Task List to permit each worker computer attempting to take a task to take at least one, then some of the worker computers attempting to take a task from the Task List may be forced to wait either until one or more additional tasks are added to the Task List, or until a signal to exit is received." There is no disclosure in Bjornson of worker computer as a group waiting for additional tasks to be added to the Task List.

For at least these reasons, and the reasons discussed for claim 1, it is respectfully submitted that Bjornson fails to anticipate the limitations of claim 4. Thus, claim 4 is therefore believed allowable and indication of such allowance is earnestly requested.

Claims 5-8

Claim 5-8 are dependent on and further limits claim 1. Since claim 1 is believed allowable, claim 5-8 are also believed allowable for at least the same reasons as claim 1.

Claim 9

Claim 9 is dependent on claim 1 and recites, in part, "generating a consolidated key identifier such that workload units belonging to the consolidated workload group share an identical sequence of values at a specified depth value of the consolidated key identifier." The Examiner correctly states, "Bjornson does not teach that the consolidated workload group would itself have identical sequence of values at a specified depth value of the consolidated key identifier."

The Office Action argues, however, "it would have been obvious to one having ordinary skill in the art to apply the scheme of using identical sequence value for the output of consolidated workload group onto just the workload group itself such that when consolidated, the work group itself would share certain identical sequence since it would provide easier tracking of workload groups." Office Action, pp. 12.

Thus, the Examiner appears to conclude that since something is beneficial, it must be obvious to one having ordinary skill in the art. It is apparent that the only for rejecting claim 9 stems from hindsight knowledge impermissibly derived from the Applicant's disclosure.

Claim 10

Claim 10 is dependent on claim 9 and recites, "wherein generating the consolidated key identifier includes decreasing the depth value of the parent workload group such that the consolidated workload group is identified." The Examiner correctly states, "Bjornson does not teach that the consolidated

workload group would itself have identical sequence of values at a specified depth value of the consolidated key identifier."

As mentioned above, Bjornson does not teach that the figure labels of Figure 5 (i.e., "Task 1.B.A1") are used as identifier keys in each workload unit. Moreover, there is no disclosure in Bjornson of consolidation of these figure labels.

Claim 11

Claim 11 is dependent on claim 1 and recites, "The method of claim 1, further comprising associating the workload unit with the key identifier such that the key identifier encodes one or more attributes of the workload unit." The Office Action alleges such teaching is found in Figure 5 of Bjornson. The Applicants disagree with such a conclusion.

The Examiner appears to be interpreting the figure labels of Figure 5 (i.e., "Task 1.B.A1") as the key identifiers. However, there is no teaching in Bjornson of the figure labels used as key identifiers in each workload unit. Bjornson discloses, "The two smaller searching tasks that are the parts of the now-divided searching task are termed 'Buddies.' Each new smaller searching task is marked as the other one's Buddy, and the original undivided task is marked as the "Parent" of each of the two new smaller searching tasks." Bjornson, paragraph [0060]. Bjornson does not disclose that the figure labels are used to identify "Buddies" and "Parent".

For at least these reasons, and the reasons discussed for claim 1, it is respectfully submitted that Bjornson fails to anticipate the limitations of claim 11. Thus, claim 11 is

therefore believed allowable and indication of such allowance is earnestly requested.

Claims 12-13

Claims 12-13 are dependent on claim 1 and further limit claim 1. Since claim 1 is believed allowable, claim 12-13 are also believed allowable for at least the same reasons as claim 1.

**CONCLUSION**

In view of the forgoing remarks, it is respectfully submitted that this case is now in condition for allowance and such action is respectfully requested. If any points remain at issue that the Examiner feels could best be resolved by a telephone interview, the Examiner is urged to contact the attorney below.

No fee is believed due with this Amendment, however, should a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Respectfully submitted,

Dated: May 19, 2009

/ido tuchman/

Ido Tuchman, Reg. No. 45,924  
Law Office of Ido Tuchman  
82-70 Beverly Road  
Kew Gardens, NY 11415  
Telephone (718) 544-1110  
Facsimile (718) 374-6092